

REMARKS

This Amendment is submitted in response to the Office Action mailed March 5, 2003, wherein the Examiner has rejected Claims 1-42 and 44-46 as being based on a defective reissue declaration, has objected to the application under 37 C.F.R. §1.172(a) for not having the assignee establish ownership interest in the reissue application, has objected to Claims 11, 12, and 19-43 as lacking support as per 37 C.F.R. §1.173(c), has objected to the form of the amendments to Claims 11 and 22, has requested the original patent, or a statement of the loss of the original patent, be received before allowance of the application, and has rejected Claims 11-15, 19-21, 22-29, 44, 30-36, 45, 37-43, and 46 under 35 U.S.C. §251 as being an improper recapture of broadened subject matter. The Examiner has also indicated that Claims 1-10 and 16-19 are allowed over the prior art and will be allowed with the submission of a supplemental oath, proper assignment, if needed, and the original patent, and that Claims 1-15, 19-21, 22-29, 44, 30-36, 45, 37-43, and 46 are allowable over the prior art and will be allowed after an amendment to overcome the recapture rejection, with the submission of a supplemental oath, a proper assignment if need, and the original patent.

In response, Claims 11, 12, 22, 30, and 37 have been amended, and Applicant has submitted a supplemental reissue declaration, and the original Letters Patent is included herewith. Applicant respectfully submits that no new matter has been entered by the amendments. **Claims 1-42 and 44-46 are pending, and Claim 43 was previously cancelled.**

REJECTION UNDER §251 – DEFECTIVE DECLARATION

Claims 1-42 and 44-46 were rejected as being based on a defective reissue declaration under §251. In response, Applicant submits herewith a SUPPLEMENTAL APPLICATION FOR REISSUE PATENT APPLICATION TO CORRECT "ERRORS" STATEMENT. Applicant respectfully requests that the rejection under §251 be withdrawn.

OBJECTION UNDER §1.172(a)

This application has been objected to under §1.172(a) for the assignee not having established ownership interest in the application for reissue. Applicant respectfully requests that the Examiner withdraws this objection, as the need to establish ownership under §1.172(a) is required only of patents that have been assigned.

The inventor of the patent for the present reissue application is the owner of the patent, as stated by the patent owner in his REISSUE APPLICATION DECLARATION BY INVENTOR: "I hereby state that U.S. Patent 5,848,492 has not been assigned to other parties" (page 2, line 4). Applicant respectfully requests that the objection under §1.172(a) be withdrawn.

OBJECTION UNDER §173(C)

Claims 11 and 12, amended 15 December 2001 and Claims 19-43, added 15 December 2001, were objected to as lacking support as per 37 C.F.R. §1.173(c). Support for the amended and new claims were supplied to the Examiner with the Amendment containing those changes. For the Examiner's convenience, Applicant is including herewith a copy of the previously filed PRELIMINARY AMENDMENT UNDER RULE 37 C.F.R. § 1.173 and STATEMENT OF STATUS/SUPPORT FOR CHANGES TO CLAIMS UNDER 37 C.F.R. §1.173(c).

OBJECTION UNDER §1.173(d)

Claims 11 and 22 were objected to for not having been previously amended in compliance with §1.173(d). In response, Claims 11 and 22 are herewith presented as being amended in proper format.

REQUEST FOR SURRENDER OF PATENT OR STATEMENT OF LOSS OF PATENT

The Examiner has requested the original patent, or a statement of the loss of the original patent, be received before allowance of the application. In response, Applicant herewith includes the original Letters Patent. However, in the event that the reissue applicant is not allowed, Applicant respectfully requests that the original patent be returned to the Applicant.

REJECTION UNDER 35 U.S.C. §251 – IMPROPER RECAPTURE

Claims 11-15, 19-21, 22-29, 44, 30-36, 45, 37-43, and 46 were rejected under 35 U.S.C. §251 as being an improper recapture of broadened subject matter. In response, independent Claims 11, 22, 30, and 37 have been amended. As per 37 C.F.R. §1.173(c), a statement of status of claims and support for claim changes is attached herewith on a separate paper.

Claim 11 has been rejected for reciting the uses of superheated steam the Examiner considers to have been surrendered during the prosecution of the original patent. In response, applicant has amended Claim 11 reinstated the recitation previously deleted in the reissue

application. As such, Claim 11 is now believed to be in condition for allowance. In addition, Claim 12 has been amended to conform with changes to Claim 11, and is also believed to be in condition for allowance.

Dependent Claims 13-15 and 19-21, through their dependency on Claim 11, also include the original recitation and thus are also believed to be in condition for allowance.

Claims 22, 30, and 37 have been rejected for not citing steam "in which substantially all water droplets are removed from the steam before forming superheated steam," or its equivalent. In response, Claims 22, 30, and 37 have been amended to include the language suggested by the Examiner, and it is thus believed that Claim 22, 30, and 37 are allowable. In addition, dependent Claims 23-29, 31-36, 38-42, and 44-46, through their respective dependency on Claims 22, 30, or 37, also include the original language, or its equivalent, and are also believed to be in condition for allowance.

ALLOWABLE SUBJECT MATTER

Examiner has indicated that Claims 1-10 and 16-19 are allowable over the prior art and will be allowed with the submission of a supplemental oath, a proper assignment if need, and the original patent. As described above, no assignment is required for this application. In addition, a supplemental oath and the original patent are presented herewith, and thus Applicant believes that Claims 1-10 and 16-19 are in condition for allowance.

Examiner has also indicated that Claims 1-15, 19-21, 22-29, 44, 30-36, 45, 37-43, and 46 are allowable over the prior art and will be allowed after an amendment to overcome the recapture rejection, with the submission of a supplemental oath, a proper assignment if need, and the original patent. The claims have been amended as suggested by the Examiner to overcome the recapture rejection. As described above, no assignment is required for this application. As both a supplemental oath and the original patent are presented herewith, Applicant believes that Claims 1-15, 19-21, 22-29, 44, 30-36, 45, 37-43, and 46 are in condition for allowance.

In view of the remarks made above, Applicant respectfully submits that the application is in condition for allowance and action to that end is respectfully solicited. If the Examiner should feel that a telephone interview would be productive in resolving issues in the case, he is invited to telephone the undersigned at the number listed below.

May 28, 2003

Respectfully submitted,

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